

**PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT**

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**DATE:** August 28, 2002

**TO:** Orange County Zoning Administrator

**FROM:** Planning and Development Services Department/Current Planning Services Division

**SUBJECT:** Public Hearing on Planning Application PA03-0053 for Variance

**PROPOSAL:** The applicant requests approval of a Variance to constructed a new one-car garage with a driveway length of 8 feet from the edge of the street to the garage door when a driveway length of 18 feet is standard. The new garage is located between an existing two-car garage and the five-foot side yard setback on the north property line. Usable uncovered deck area is proposed above the new garage.

**LOCATION:** The project site is located in the south coastal area of the County, in the community of Emerald Bay at 916 Emerald Bay, Laguna Beach. Fifth Supervisorial District

**APPLICANT:** David and Rosemarie Kuhn, property owners  
David B. Smith Architect, agent

**STAFF** William V. Melton, Project Manager

**CONTACT:** Phone: (714) 834-2541 FAX: (714) 667-8344

**SYNOPSIS:** Current Planning Services Division recommends Zoning Administrator approval of PA03-0053 for Variance subject to the attached Findings and Conditions of Approval.

**BACKGROUND:**

The subject site is a corner lot, rectangular in shape, averaging 80 feet in depth and 119 feet in width containing approximately 10,000 square feet in area. The site is developed with a multi-level, 4,760 square feet single-family dwelling. The lot is somewhat larger than other Emerald Bay lots but the dwelling is typical for the development in this area of Emerald Bay. The dwelling is setback 25 feet from the front property line, 8 feet inches from the rear property line and 6 feet and 17 feet from the side property lines. Available records indicate the residence was built in 1958 and Variance V2640 established the existing setbacks. As indicated in the project proposal, the applicant requests a Variance to locate a new one-car garage with a driveway length less than 18 feet.

**SURROUNDING LAND USE:**

The project site and all surrounding properties are zoned R1 "Single-family Residence" District with a CD "Coastal Development" District overlay, and developed with (or approved for) single-family dwellings (see photo below). Emerald Bay also has a certified Local Coastal Program (LCP). The LCP

has a requirement that all properties on the ocean side of Pacific Coast Highway are also subject to regulations contained in Zoning Code Section 7-9-118 “Coastal Development” District. In general, property owners are required to obtain approval of a Coastal Development prior to demolishing dwelling or making large additions to an existing residence and/or construction of a new dwelling. Properties located inland of Pacific Coast Highway, such as the subject site, are not subject to the CD regulation and are not subject to obtaining a Coastal Development Permit for new construction.



#### **REFERRAL FOR COMMENT AND PUBLIC NOTICE:**

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to four County Divisions and the Emerald Bay Community Association. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. The Emerald Bay Community Association approved the proposal on January 7, 2003.

#### **CEQA COMPLIANCE:**

The proposed project is Categorical Exempt (Class 5, minor alterations in land use limitations such as setback variance) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

**DISCUSSION/ANALYSIS:**

There are many variances in Emerald Bay. The reason for the variances is the community's CC&Rs that have setbacks of 5 feet from all properties lines. The R1 zoning setback requirements do permit 5 feet side yard setbacks, but in nearly all lots in Emerald Bay the front and rear setbacks are greater than 5 feet. In cases where lots that have a depth of less than 100 feet under Zoning Code Section 7-9-128 are permitted reduced front and rear setbacks from the standard R1 front setback of 20 feet and a rear setback of 25 feet. Additionally, the County's standard driveway lengths are not taken into account in the CC&Rs. The standard driveway setback, or driveway length, is 18 from back of sidewalk or where there is no sidewalk, from back of curb. Emerald Bay has no sidewalks, so the garage setback is from back of curb, or street edge. The applicant is requesting a setback of 8 feet between the new garage door and edge of the street. Subdivision and Grading Services/Traffic Review Section reviewed this proposal and only recommended that a condition be applied that the proposal provides adequate site distance per standard County plans.

Staff notes that many Planned Community's provide for a garage setback of 7 feet or less or 17 feet or more. This setback arrangement discourages a car from parking in a short driveway. Emerald Bay has strict enforcement of their parking regulations and short driveways have not been an issue in previous approvals. Additionally, the applicant has an existing two-car garage with space in front to park several other cars. Staff does not foresee issues with the proposed garage setback for the third covered parking space. However, before this variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the application must be disapproved.

1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.
2. Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Staff is of opinion that the Zoning Administrator is able to make these two special variance findings. The special circumstances for approving the variance requested for this proposal is in Finding no. 7 of Appendix A. Because the requested garage setback variance is typical of previously approved setback variances, staff can support the proposed and makes a recommendation as follows.

**RECOMMENDED ACTION:**

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA03-0053 for Variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief  
CPSD/Site Planning Section

WVM

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**APPENDICES:**

- A. Recommended Findings
- B. Recommended Conditions of Approval

**EXHIBITS:**

1. Applicant's Letter of Explanation
2. Site Photos
3. Site Plans

**APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the Planning and Development Services Department.